amendment, which would restore the Glass-Steagall Act's 60-years-long separation between commercial and investment banking activities—which I have spoken on the floor many times about—I believe very strongly that, at a minimum, we must pass the Merkley-Levin amendment that would ban proprietary trading activities by commercial banks.

This is not a radical amendment. After all, it is President Obama's proposal, which he has named the Volcker rule, after the most respected bank regulator in the last half century, former Federal Reserve Chairman Paul Volcker. It has been represented to us for many weeks that even the current version of the bill includes a mandatory imposition of the Volcker rule after a 6-month study. The Merkley-Levin amendment would remove any doubt about whether the new council could, after its review, recommend modifications to the rule.

Merkley-Levin, in my view, is where the rubber hits the road. It is a true test of whether the administration and the Congress are serious about imposing limitations on the activities of the government-guaranteed part of our financial system—in short, so that casino-like activities can no longer remain centered at the heart of too-big-to-fail institutions.

I also believe that a strong financial reform bill must retain the key provisions on too big to fail that are already in the bill, particularly Senator LINCOLN's provision to prohibit banks with swap dealers from receiving emergency Federal loans, and an amendment to the bill, Senator DORGAN's amendment, which bans naked credit default swaps.

As I said, I am proud to support Senator MERKLEY's and Senator LEVIN's amendment to include a more robust version of the Volcker rule ban on proprietary trading within commercial banks in the bill.

Specifically, the amendment would bar banks and their affiliates from engaging in proprietary trading and from owning a hedge fund or private equity fund. To avoid regulatory arbitrage, it would also increase capital requirements on large nonbank financial institutions engaged in proprietary trading.

The Merkley-Levin amendment would minimize the potential procedural roadblocks to the Volcker rule contained in the current bill by specifically directing the regulators to develop rules to implement the Volcker rule restrictions. It would not give unnecessary discretion to the same regulators who have long had the authority to prohibit speculative activities at banks but never opted to do so.

I have heard some proposals call for so-called de minimis exceptions and other loopholes to a ban on proprietary trading at banks. Loopholes of this kind, however, undermine the very spirit of the Volcker rule and would allow banks that benefit from federally insured deposits and access to the Fed window to continue to engage in activities that are speculative in nature. Importantly, this amendment would also build upon the work of Senator LEVIN's Permanent Subcommittee on Investigations to address conflicts of interest within the modern investment banking model. The PSI subcommittee hearings, in which I had the privilege to participate, demonstrated how Wall Street firms sold clients securities without disclosing their financial interests in seeing such securities fail or perform poorly—basically betting against the very securities they were selling to their clients. Talk about a conflict of interest. This amendment would address this problem by prohibiting underwriters of an asset-backed security from engaging in transactions that create material conflicts of interest with respect to the securities being sold—something I think everyone, on observation, agrees should be the case.

I strongly urge my colleagues to support Merkley-Levin so we can say to the American people we have acted in Congress to prevent another crisis. I do not want to put my faith in a stability council of regulators detecting ''early warning signals'' of financial instability. I would rather we move our largest banks off of the San Andreas Fault of leverage and speculation on which they now sit.

I also support strongly Senators CANTWELL's and MCCAIN's amendment to break up the largest banks by reimposing the Glass-Steagall Act. Unless we break the megabanks apart, they will remain too large and interconnected for regulators effectively to control. Once the next inevitable financial crisis occurs and the contagion spreads too quickly for the government to believe that a failing firm won't take down others as well, the American taxpayer—the good old American taxpayer—will again be forced into the breach.

By statutorily splitting apart massive financial institutions that house both banking and security operations, we will both cut our megabanks down to reasonable and manageable sizes and rightfully limit government support to traditional banks. This worked for nearly 60 years and once again will ensure the soundness of commercial banks while placing risky bank investment activities far beyond any government safety net check.

If Congress fails to impose needed structural changes like Glass-Steagall, the same systemic risks to our financial system remain and grow bigger and bigger and bigger. When the next crisis occurs, however, the legislative pendulum will suddenly shift direction and will fall hard on Wall Street in the form of Glass-Steagall and far more Draconian reforms.

I also believe we must preserve section 716 of the current Senate bill. The provision included in the bill by Senate Agriculture Committee Chairman LINCOLN would prohibit banks with swap dealers from receiving emergency assistance from the Federal Reserve or FDIC. By forcing megabanks to spin off their swap dealers into an affiliate or separate company, this section would help restore the wall between the government-guaranteed part of the financial system and those financial entities that remain free to take on greater risk.

It would also help address the enormous concentration of power among a few too-big-to-fail institutions. As has been quoted many times on this Senate floor over the last several weeks, the five largest banks—Goldman Sachs, Morgan Stanley, JPMorgan Chase, Citigroup, and Bank of America—control over 90 percent of the over-the-counter derivatives market. That is nine zero, 90 percent, our 5 largest banks. Yet there are those who say that forcing these megabanks to spin off their swap dealers to affiliates in only a few years' time would disrupt the derivatives market. The historical record shows repeatedly that financial institutions can adapt to regulatory changes quite quickly. Look at Goldman Sachs. Goldman Sachs has been a bank holding company for fewer than 2 years. Within that time, it has used its newly formed bank, which is just one-tenth the size of the overall holding company, to source the vast majority of its derivatives transactions. That is just in the last 2 years. Amazingly, Goldman Sachs has a $41 trillion derivatives book attached to a $91 billion bank. Do you have that? A $91 billion bank with a $41 trillion derivatives book attached to it.

Unfortunately, allowing massive derivatives dealers to be housed within banks creates moral hazard, a term often invoked by my conservative colleagues. This was true of AIG, which rented out its AAA rating and the financial strength of its insurance subsidiaries, to write credit default swap contracts that systemically underpriced risk. It is also true of dealer banks whose access to federally insured deposits and the government backstop of emergency lending allows them to underprice risk on swap contracts. Notably, this government subsidy allows these institutions to be lax in their collateral and margin requirements on derivatives transactions.

Some complain that requiring the megabanks to spin off their derivatives dealers would require these dealers to raise extra capital as affiliates. I say that is precisely the point. Housing a large derivatives dealer book in a bank, even a small one, allows these institutions to arbitrage capital requirements. Requiring them to spin off their dealer to a separate broker-dealer affiliate would appropriately require them to raise more capital based upon the riskiness of their derivatives book. This is good. Currently, these institutions are undercapitalized.

Yet Fed Chairman Bernanke claims:

> Forcing these activities out of insured depository institutions would weaken both financial stability and strong prudential regulation derivative activities.